

NEWS

NEW JERSEY DEPARTMENT OF

LWD

LABOR AND WORKFORCE DEVELOPMENT  
n j . g o v / l a b o r

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**RE: New Jersey State Board of Mediation  
Elections**

**Proposed Readoption: N.J.A.C. 12:106**

Attached please find the above-referenced matter which was published in the August 7, 2006 *New Jersey Register*.

If you have any questions, please contact David Fish, Regulatory Officer at (609) 292-2789.

# LABOR AND WORKFORCE DEVELOPMENT

(a)

## NEW JERSEY STATE BOARD OF MEDIATION

### Elections

#### Proposed Readoption: N.J.A.C. 12:106

Authorized By: David J. Socolow, Acting Commissioner,  
Department of Labor and Workforce Development.  
Authority: N.J.S.A. 34:1-20, 34:1A-3(e) and 34:13A-1 et seq.,  
specifically, 34:13A-11.

Calendar Reference: See Summary below for explanation of  
exception to calendar requirement.

Proposal Number: PRN 2006-249.

A public hearing on the proposed readoption will be held on the  
following date at the following location:

Thursday, August 24, 2006  
10:00 A.M. to 12:00 Noon  
New Jersey Department of Labor and Workforce Development  
John Fitch Plaza  
13th Floor Auditorium  
Trenton, New Jersey

Please call the Office of Legal and Regulatory Services at (609)292-  
2789 if you wish to be included on the list of speakers.

Submit written comments by October 6, 2006 to:

David Fish, Regulatory Officer  
Office of Legal and Regulatory Services  
P.O. Box 110, 13th Floor  
Trenton, New Jersey 08625-0110  
Fax: (609) 292-8246

If you need this document in Braille, large print or audio cassette,  
please contact the Office of Marketing at (609)292-7832 or NJ Relay  
(TTY) 1-800-852-7899.

The agency proposal follows:

#### Summary

Pursuant to N.J.S.A. 52:14B-5.1c, N.J.A.C. 12:106, which addresses  
the use of the New Jersey State Board of Mediation (the Board) to  
conduct elections for the selection of an exclusive collective bargaining  
agent, is scheduled to expire on December 28, 2006. The chapter applies  
to employers and employees who voluntarily utilize the Board to conduct  
such elections and who voluntarily agree to abide by the rules of the  
chapter relative to such elections. It is explained within the chapter that  
the Board will conduct such elections only in those instances where the  
employer and the labor organization(s) involved enter into an agreement  
setting forth (1) the appropriate unit; (2) the time and place of holding the  
election; and (3) the payroll to be used in determining which employees  
will be eligible to vote in the election. The remainder of the chapter sets  
forth procedures to be utilized, for example, filing a request for election,  
intervening in an election, stationing observers at election sites and  
challenging ballots, when the employer and the labor organization(s)  
have agreed to use the services of the Board in conducting an election.  
The Department of Labor and Workforce Development and the New  
Jersey State Board of Mediation have reviewed these rules and have  
determined them to be necessary, reasonable and proper for the purposes

for which they were originally promulgated and are, therefore, proposing  
them for readoption at this time.

A summary of the subchapters of N.J.A.C. 12:106 follows:

N.J.A.C. 12:106-1 addresses the role of the Board in conducting  
elections for the selection of an exclusive collective bargaining agent.

N.J.A.C. 12:106-2 sets forth the election procedures, which include  
procedures for the submission of a request for election, the submission of  
a petition to intervene in an election, the conditions of election, the  
stationing of observers to an election, the challenging of election ballots,  
the filing of objections to the conduct of an election, establishing  
conditions for a second or runoff election, and the certification of an  
election.

As the Department has provided a 60-day comment period for this  
notice of proposal, this notice is excepted from the rulemaking calendar  
requirements, pursuant to N.J.A.C. 1:30-3.3(a)5.

#### Social Impact

The rules proposed for readoption have had and would continue to  
have a positive social impact in that they have assisted and would  
continue to assist employers and employees who choose to utilize the  
services of the Board for the holding of elections to select a collective  
bargaining agent.

#### Economic Impact

The rules proposed for readoption have provided and would continue  
to provide procedures to be followed when the Board has been chosen to  
conduct an election for the selection of a collective bargaining agent by  
the employer and the labor organization(s) involved. The use of the  
Board and its streamlined procedures to conduct such elections may  
result in cost reductions where those involved in the elections have  
already reached agreement with regard to the appropriate unit, the time  
and place of holding the election and payroll to be used in determining  
the pool of eligible voters.

#### Federal Standards Statement

A Federal standards analysis is not required because the rules  
proposed for readoption are not subject to any Federal requirements or  
standards.

#### Jobs Impact

Neither the Department nor the Board anticipate an increase or  
decrease in jobs as a result of the rules proposed for readoption.

#### Agriculture Industry Impact

The rules proposed for readoption would have no impact on the  
agriculture industry.

#### Regulatory Flexibility Analysis

The rules proposed for readoption would not impose recordkeeping or  
reporting requirements on employers, including small businesses, as that  
term is defined in the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et  
seq. However, the rules proposed for readoption would impose the  
following compliance requirements on small businesses: (1) N.J.A.C.  
12:106-2.1 would continue to require that when a request for an election  
is made by representatives of either an employer or a labor organization,  
the request must contain the name and address of the employer, the name  
and address of the labor organization or organizations concerned in the  
representation question, and other facts relevant to the controversy, and  
(2) N.J.A.C. 12:106-2.6 would continue to require that objections to the  
conduct of an election, when filed, must be filed within five days after  
closing of the polls and that copies of the objections so filed must be  
forwarded by the objecting party to each of the other parties. The former  
requirements (those pertaining to requests for election) are the minimum  
requirements that could be imposed by the Department and the Board of  
Mediation, since, in order to process a request for election, the Board of  
Mediation must, at a minimum, know the names and addresses of the  
parties to the election and the essential facts that are relevant to the  
controversy that is the subject of the election. Without that information,  
the Board would be unable to effectively perform its function under this  
regulatory scheme. The later requirements (those pertaining to the filing  
of objections) are also the minimum requirements that could be imposed  
by the Department and the Board of Mediation, since in order to  
effectively hear objections to the conduct of an election all parties must

## PROPOSALS

be apprised of the basis or bases for the objection and reasonable time limits for the receipt of objections must be established. There are no costs associated with these requirements.

The procedures established for elections conducted by the Board for the selection of an exclusive collective bargaining agent (see Summary above) would be applied to all businesses, regardless of size, when those businesses have chosen to use the Board to conduct such elections. This election process is implemented by choice and is designed to benefit all parties concerned. There would be no professional services required in order to comply with chapter proposed for readoption.

### **Smart Growth Impact**

The rules proposed for readoption would not have an impact on the achievement of smart growth and the implementation of the State Development and Redevelopment Plan.

**Full text** of the rules proposed for readoption may be found in the New Jersey Administrative Code at N.J.A.C. 12:106.

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